

## REMARKS

Claims 21-44 are pending in this application. Claims 21, 27, 35 and 43 are independent.

### **Response to paragraphs 1 and 2 of the Office Action**

MPEP § 2107 specifies certain showings that must be set forth in writing if any “utility” rejection is to be raised. Applicant notes that these showings were not made, and thus no utility rejection was raised. Nonetheless, in order to advance prosecution, claims 21 and 35 have been amended to recite “a rules indicator”.<sup>1</sup> Accordingly, applicant respectfully requests that this rejection be withdrawn

### **Response to Paragraphs 3 and 4 of the Office Action**

Gohlke fails to anticipate claim 27 because Gohlke does not disclose “using the random number generator in combination with the indicia associated with the first and second spheres to determine an outcome”. Gohlke discloses a game using (1) a game board, (2) dice (3) a deck of cards and (4) a billiards table with pool balls. The dice are used to move markers around the board. Depending upon where the marker lands on the board, the players play a game of billiards or cards. The dice play no role in the outcome of the card game or billiards game.

In the game of pool, the numbers on the balls that come into contact with each other are not compared with each other in order to determine an outcome. Thus, Gohlke does not anticipate claim 35 because it does not disclose “rules wherein the first value is compared to the second value when the first sphere contacts the second sphere to determine an outcome”.

Gohlke fails to anticipate claim 43 because it does not disclose “a rule indicator indicating rules . . . wherein the rules specify an outcome that is determined using the random number generator and the indicia when two of the spheres come into contact with each other”.

Because Gohlke does not anticipate independent claims 27, 35 and 43, it cannot anticipate their respective dependent claims.

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<sup>1</sup> As claim 1 was previously withdrawn, applicant assumes that the Examiner is referring to claim 21 in paragraphs 1 and 2 of the office action.

In addition, applicant respectfully disagrees with the Examiner's statement that the limitations of claim 31 are inherent in playing pool. In a game of pool, all the balls start within the playing field. In contrast, claim 31 recites that "the second sphere strikes the first sphere by entering the playing field after being launched from outside the playing field."

Applicant also disagrees with the Examiner's statement regarding claims 36-40. "There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper." MPEP § 2173.05(g). "A functional limitation must be evaluated and considered, just like any other limitation of the claim . . . ." MPEP § 2173.05(g).

For all of the above reasons, applicant respectfully requests that the rejections to claims 27-44 be withdrawn.

#### **Response to Paragraph 6 of the Office Action**

As discussed above, Gohlke fails to teach, suggest or disclose "a rule indicator" with rules that "specify an outcome that is determined using the random number generator and the at least one information indicator when two of the spheres come into contact with each other." Headford also fails to teach, suggest or disclose this limitation. Thus, independent claim 21 and its dependent claims are patentable over any combination of Gohlke and Headford. Furthermore, with respect to claim 25, applicant respectfully disagrees with the Examiner that the cue ball is bigger than the other balls in a pool game. The cue ball in a game of pool is the same size as the other balls, and Gohlke does not teach that the cue ball is bigger.

For all of the above reasons, applicant respectfully requests that the rejection to claims 21-26 be withdrawn.

In light of the above, applicant respectfully submits that the claims are in condition for allowance.

Submitted with this amendment is a petition for a one-month extension of time and a check for \$60.00. No other fees are believed to be due.

Respectfully submitted,

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